

## **REMARKS**

Claims 1-22 are pending in the application. Claims 1, 5, 12 and 16 are currently amended.

### **Claim Rejections - 35 U.S.C. §101**

Claims 1-22 are rejected as being directed to non-statutory abstract ideas. In view of the amendments to claims 1 and 12, the specific rejection is essentially moot. However, Applicants respectfully disagree with the Examiner's finding that the claims are directed to non-statutory abstract ideas simply by virtue of processing steps being implemented by a computer or the claims being of broad scope. In assessing whether claimed subject matter is directed to abstract ideas with no tangible results, the determinative issue is not whether the claimed process steps are implemented by a computer, but rather the significance of the data what real-world practical function is being performed by the computer.

Here, the claims are generally directed to computer implemented automated processes for generating a performance model characterizes service performance of a distributed data processing system as a function of service demand parameters, wherein performance data of the distributed computing system (e.g., system throughput, server utilization, end-to-end response time, etc.) are obtained and used for inferring service demand parameters that are used to parameterize the performance model. In this regard, the claimed subject matter is clearly directed to statutory processes having real-world, practical applications, and not intangible abstract ideas. Withdrawal of the rejection is requested.

### **Claim Rejections - 35 U.S.C. §112**

Claims 1-22 are rejected for the reasons set forth on page 3 of the Office Action. Applicants respectfully disagree with the Examiner's contention that the claims omit the necessary structural cooperative relationships of elements. The Examiner seemingly confuses

claim breadth with indefiniteness. In any event, this rejection is believed to be rendered moot by virtue of the amendments of claims 1 and 12. Withdrawal of the rejection is requested.

#### **Claim Rejections - 35 U.S.C. §102**

Claims 1-6 and 12-17 are rejected as being anticipated by US. Patent No. 5,881,268 to McDonald. Applicants respectfully assert that at the very least, claims 1 and 12 are patentable over McDonald.

McDonald does not specifically teach a process of determining service demand parameters of a performance model for a distributed computing system by inferring (estimating) the service demand parameters using performance data of the distributed data processing system as input data to a performance modeling process, as essentially claimed in claims 1 and 12. In particular, McDonald does not specifically disclose *parameterizing a performance model of a distributed system using a set of service demand parameters that are determined using inferred service demand parameters based on performance data of the distributed system.*

In contrast, McDonald discloses a performance modeling tool in which the service demand parameters are user specified data that is manually input to the performance modeling tool (see, e.g., Col 5, lines 45-55). Although McDonald teaches a performance model that outputs performance results such as utilization, response time, etc, (Col. 25-30), the performance modeling tool constructs performance models based on user specifications (Col. 5, lines 9-13). In short, McDonald does not use output performance data as input to model building process as a means of determining the service demand parameters of a performance model.

Accordingly, claims 1-6 and 12-17 are not anticipated by McDonald. Withdrawal of the anticipation rejections is requested.

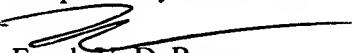
#### **Claim Rejections - 35 U.S.C. §103**

Claims 7-11 and 18-22 are rejected as being unpatentable over McDonald in view of Ding (US Patent No. 6,691,067). This rejection is based, in part, on the teachings of the primary

reference McDonald as applied to base claims 1 and 12. In this regard, the obviousness rejections are invalid at least for the same reasons given above for claims 1 and 12 in that the combination of Ding and McDonald does not disclose or suggest *parameterizing a performance model of a distributed system using a set of service demand parameters that are determined using inferred service demand parameters based on performance data of the distributed system.*

Accordingly, withdrawal of the obviousness rejections is respectfully requested.

Respectfully submitted,

  
Frank V. DeRosa  
Reg. No. 43,584  
Attorney for Applicant(s)

F. Chau & Associates, LLC  
130 Woodbury Road  
Woodbury, New York 11797  
TEL.: (516) 692-8888  
FAX: (516) 692-8889